

1 HONORABLE JAMAL N. WHITEHEAD
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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 SCOTT CARLSON, TYLER PARNELL,
9 ALLISON HALLIFAX, SHARON L. DAVIS,
and BRIAN ROBILLARD,

10 Plaintiffs,

11 v.

12 CITY OF REDMOND,

13 Defendant.

14 NO. 2:22-CV-01739-JNW

15 STIPULATED MOTION AND
16 ~~PROPOSED~~ ORDER TO SET NEW
17 TRIAL DATE AND CASE SCHEDULE

18 Noted for Consideration: August 30, 2023

19 **I. STIPULATION**

20 For good cause shown and pursuant to Federal of Civil Procedure 16(b)(4) and Local Civil
21 Rule 16(b)(6), the parties respectfully and jointly move the Court for entry of an order setting a
new case schedule and trial date.

For good cause shown and with the Court's consent, the Court may modify the deadlines
in the scheduling order. Fed. R. Civ. P. 16(b)(4); LCR 16(b)(6). The "good cause" standard
primarily considers the diligence of the party seeking the amendment: the district court may
modify the pretrial schedule if it cannot reasonably be met despite the diligence of the parties

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1 seeking the extension. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir.
 2 1992) (citing Fed. R. Civ. P. 16 advisory committee's notes (1983 amendment)). Although the
 3 existence or degree of prejudice to the opposing party might supply additional considerations for
 4 a motion to modify, the focus remains on the moving party's reasons for seeking modification.
 5 *Johnson*, 975 F.2d at 609.

6 Counsel for the parties have been working cooperatively in discovery, have conferred, and
 7 agree that good cause exists to grant the relief requested, as set forth below:

8 1. On April 27, 2023, the parties (then Scott Carlson and the City) filed a "Motion to
 9 Strike the Trial Date and Stay the Case Schedule Pending Identification of Potential Additional
 10 Plaintiffs." (Dkt. #17.) On May 10, 2023, the same parties filed a Stipulated Motion for Leave to
 11 File a First Amended Complaint Adding Additional Plaintiffs and Claim." (Dkt. #18.)

12 2. On May 22, 2023, the Court issued an order directing the parties to submit a version
 13 of the proposed amended complaint with redline changes. (Dkt. #19.) After the parties did so, the
 14 Court issued an order on May 24, 2023, striking the trial date and case schedule and directing the
 15 parties to submit a joint status report every 60 days. (Dkt. #20.) On June 1, 2023, the Court granted
 16 the stipulated motion for leave to amend and the amended complaint was filed the following day.
 17 (Dkt. #'s 21-22.) The amended complaint added Tyler Parnell, Allison Hallifax, Sharon L. Davis,
 18 and Brian Robillard as plaintiffs. (Dkt. #22.)

19 3. On July 21, 2023, the parties filed a joint status report outlining the status of written
 20 discovery, Plaintiffs' plan to file a stipulated motion for leave to file a second amended complaint
 21 by July 23, and that the proposed second amended complaint would add the final remaining

1 plaintiffs in this action. (Dkt. #24.)

2 4. On July 23, 2023, Plaintiffs' counsel filed a proposed second amended complaint
 3 with redline changes to add the final three remaining Plaintiffs. Counsel did not file a stipulation
 4 or motion seeking leave to amend, nor has the Court issued an order granting leave to file a second
 5 amended complaint.

6 5. On August 22, 2023, Defendant filed its answer to Plaintiffs' amended complaint
 7 that was filed on June 2, 2023. (Dkt. #33.)

8 6. With all the potential plaintiffs now identified, the good cause that existed for
 9 granting the parties' earlier motion to strike the trial date and case schedule no longer exists. The
 10 parties have been proceeding with written discovery, have conferred, and agree good cause now
 11 exists to set a new trial date and case schedule.

12 Given the above referenced facts, the parties stipulate that good cause exists to set a new
 13 case schedule and trial date in this matter. The parties now jointly move the Court for an order to
 14 that effect.

15 THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

16 A new case schedule and trial date shall be set as follows¹:

| <u>Event</u> | <u>Date</u> |
|---|-------------------|
| Disclosure of expert testimony under FRCP 26(a)(2) | February 19, 2024 |
| Disclosure of rebuttal expert testimony under FRCP 26(a)(2) | March 20, 2024 |

21 1 The following dates are proposed, subject to the Court's availability.

| <u>Event</u> | <u>Date</u> |
|---|-------------------|
| All motions related to discovery must be filed by and noted on the motion calendar no later than the third Friday thereafter (see LCR 7(d)) | April 11, 2024 |
| Discovery completed by | May 20, 2024 |
| All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see LCR 7(d)) | June 20, 2024 |
| All motions related to expert witnesses (e.g., a Daubert motion) must be filed by and noted on the motion calendar no later than the third Friday thereafter (see LCR 7(d)) | June 27, 2024 |
| All motions in limine should be filed by and noted on the motion calendar no later than the Friday before the Pretrial Conference. (See LCR 7(d)(4)) | August 8, 2024 |
| Trial Briefs and Agreed Pretrial Order due ² | August 16, 2024 |
| Proposed Findings of Fact and Conclusions of Law, and designations of deposition testimony pursuant to CR32(e) due | August 27, 2024 |
| Pretrial conference to be held at 10:00am on | August 30, 2024 |
| 10 DAY BENCH TRIAL set for 9:00am | September 9, 2024 |

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² The Agreed Pretrial Order shall be filed in CM/ECF and shall also be attached as a Word compatible file to an e-mail sent to the following address: WhiteheadOrders@wawd.uscourts.gov.

1 IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.

2 DATED this 30th day of August, 2023.

3 By: /s/ Robert L. Christie
4 Robert L. Christie, WSBA #10895
5 Stuart A. Cassel, WSBA # 49808
6 Christie Law Group PLLC
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12 By: /s/ Tracy Tribbett
13 Tracy Tribbett, WSBA #35922
14 Pacific Justice Institute
15 6400 Three Rivers Drive
16 Pasco, WA 99301
17 Telephone: 509-713-9868
18 Email: ttribbett@pji.org

19 *Attorney for Plaintiffs*

20 *Attorneys for Defendant*

II. PROPOSED ORDER

10 THIS MATTER having come on regularly for hearing upon the stipulation of the parties
11 above contained, and the Court being fully advised in the premises, now, therefore, it is hereby
12 ORDERED that the following trial date and case schedule shall be set:

| <u>Event</u> | <u>Date</u> |
|---|--|
| Disclosure of expert testimony under FRCP 26(a)(2) | February 19, 2024 February 12, 2024 |
| Disclosure of rebuttal expert testimony under FRCP 26(a)(2) | March 20, 2024 March 13, 2024 |
| All motions related to discovery must be filed by and noted on the motion calendar no later than the third Friday thereafter (see LCR 7(d)) | April 11, 2024 March 13, 2024 |
| Discovery completed by | May 20, 2024 April 12, 2024 |
| All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see LCR 7(d)) | June 20, 2024 May 13, 2024 |

| <u>Event</u> | <u>Date</u> |
|---|--------------------------------------|
| All motions related to expert witnesses (e.g., a Daubert motion) must be filed by and noted on the motion calendar no later than the third Friday thereafter (see LCR 7(d)) | June 27, 2024 |
| Settlement Conference under LCR 39.1, if requested by parties, held no later than | July 11, 2024 |
| All motions in limine should be filed by and noted on the motion calendar no later than the Friday before the Pretrial Conference. (See LCR 7(d)(4)) | August 8, 2024 July 31, 2024 |
| Trial Briefs and Agreed Pretrial Order due ³ | August 16, 2024 August 26, 2024 |
| Agreed Pretrial Order due | August 19, 2024 |
| Proposed Findings of Fact and Conclusions of Law, and designations of deposition testimony pursuant to CR32(e) due | August 27, 2024 August 19, 2024 |
| Pretrial conference to be held at 10:00am on | August 30, 2024 September 4, 2024 |
| 10 DAY BENCH TRIAL set for 9:00am | September 9, 2024 |

ENTERED this 12th day of September, 2023.



Jamal N. Whitehead
United States District Judge

Presented by:

By: /s/ Robert L. Christie
Robert L. Christie, WSBA #10895
Stuart A. Cassel, WSBA # 49808

By: /s/ Tracy Tribbett
Tracy Tribbett, WSBA #35922
Pacific Justice Institute

³ The Agreed Pretrial Order shall be filed in CM/ECF and shall also be attached as a Word compatible file to an e-mail sent to the following address: WhiteheadOrders@wawd.uscourts.gov.

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12 *Attorney for Plaintiffs*

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